

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEVIN MATRINE,

Defendant-Appellant.

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UNPUBLISHED

July 31, 1998

No. 200527

Oakland Circuit Court

LC No. 95-139107 FH

Before: Markman, P.J., Saad and Hoekstra, JJ.

PER CURIAM.

A jury convicted defendant of assault with intent to do great bodily harm less than murder.<sup>1</sup> The court, in turn, sentenced defendant to three and a half to twenty years in prison. Defendant now appeals his conviction. We affirm.

Defendant argues that his conviction was against the great weight of the evidence. However, because defendant did not move for a new trial, this issue is not preserved for appeal, and we therefore decline to address it. *People v Winters*, 225 Mich App 718, 729; 571 NW2d 764 (1997). In any event, were we to consider defendant's claims of flaws in the prosecution's case, we are satisfied that the jury's verdict was not against the great weight of the evidence. To prove assault with intent to commit great bodily harm the prosecution must show "(1) an assault, i.e., "an attempt or offer with force and violence to do corporal hurt to another" coupled with (2) a specific intent to do great bodily harm less than murder." *People v Bailey*, 451 Mich 657, 668-669; 459 NW2d 325 (1996). Were we to credit the allegations that complainant exaggerated the severity of the assault, we nonetheless find the prosecution clearly established that defendant committed assault with intent to do great bodily harm less than murder.

Defendant also complains without merit, that the court's statements during the jury selection process that the trial would only take two days denied him a fair trial because it encouraged hasty deliberations and resulted in a coerced verdict. Because defendant did not object to the comments made by the trial court in the presence of the jury, this issue has not been properly preserved for appellate review. *People v Sardy*, 216 Mich App 111, 117-118; 549 NW2d 23 (1996); *People v*

*Collier*, 168 Mich App 687, 697; 425 NW2d 118 (1988). However, in the absence of such an objection, this Court may review the issue if manifest injustice, such as

denial of a fair trial, would result from failure to review. *People v Paquette*, 214 Mich App 336, 340; 543 NW2d 342 (1995); *Collier, supra* at 697. The record does not indicate that the trial court's prediction of a two-day trial was coercive or prejudicial, or that it encouraged hasty deliberations. The record does reflect that prospective jurors candidly stated their concerns about the length of trial. Because the trial court's comments did not deprive defendant of a fair trial, a miscarriage of justice will not occur if this Court declines to review the issue.

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Joel P. Hoekstra

<sup>1</sup> MCL 750.84; MSA 28.279.